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7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **IN AND FOR KING COUNTY**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 vs.

12 CONNER MICHAEL SCHIERMAN,

13 Defendant.

NO. 06-1-06563-4 SEA

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ON DEFENSE
MOTION FOR PROTECTIVE ORDER
PURSUANT TO THE PUBLIC
DISCLOSURE ACT

14 **FINDINGS OF FACT**

15 1. On July 24, 2006, the Kirkland Police Department erroneously released the
16 entire investigative file to representatives of KING 5 TV pursuant to their Public Disclosure
17 Act request.

18 2. The erroneously released material was returned by KING 5 TV representatives
19 at the request of the Kirkland Police Department.

20 3. Prior to recovery, some of the materials were reported to the public, including
21 portions of Mr. Schierman's statement to the police, still photographs purported to be Mr.
22 Schierman at an AM/PM, and a copy of a sketch of the crime scene purportedly drawn by Mr.
23 Schierman.
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4. Numerous news agencies have filed Public Disclosure Act requests with the Kirkland Police Department seeking investigation records in this matter.

5. This case was referred for prosecution and Mr. Schierman's first court appearance was held on July 20, 2006.

6. James Conroy and his office have represented Mr. Schierman since July 20, 2006.

CONCLUSIONS OF LAW

1. This Motion for Protective Order is procedurally brought under the Public Disclosure Act, which gives the defendant standing to challenge disclosure of investigation records related to this case. RCW 42.56.540.

2. The Public Disclosure Act is “a strongly worded mandate for broad disclosure of public records.” Hearst Corp v. Hoppe, 90 Wn.2d 123, 127, 580 P.2d 246 (1978).

3. There is no categorical exemption under RCW 42.56.240(1) once a case has been referred to the prosecutor's office for filing. Progressive Animal Welfare Society v. University of Washington, 125 Wn.2d 243 (1994); Cowles Publishing Co. v. Spokane Police Department, 139 Wn.2d 472, 987 P.2d 620 (1999).

4. This Court must make an individualized determination of what information, if any, remains protected from disclosure, and “the Act’s disclosure provisions are to be construed liberally and its exceptions narrowly.” Progressive Animal Welfare Society v. University of Washington, 125 Wn.2d 243 (1994); Cowles Publishing Co. v. Spokane Police Department, 139 Wn.2d 472, 987 P.2d 620 (1999); Koenig v. City of Des Moines, ____ Wn.2d ____ (8/31/06).

5. The standard for determining whether release is appropriate here is whether the non-dissemination of specific investigation records is necessary: 1) to avoid harm to the pending legal process; 2) to avoid compromising the privacy rights or other constitutional rights of the defendant, or 3) for the protection of any person's right to privacy. Progressive Animal Welfare Society v. University of Washington, 125 Wn.2d 243 (1994); Cowles Publishing Co. v. Spokane Police Department, 139 Wn.2d 472, 987 P.2d 620 (1999).

6. After reviewing the entire original discovery, the Kirkland Police Department's proposed redacted version, and the defense proposed redactions (submitted without prejudice to their argument that no records should be released), this Court has determined some records should remain exempt to protect privacy and to enforce Mr. Schierman's constitutional rights to due process and a fair trial, while other materials can be released under the Public Disclosure Act.

7. The redacted versions submitted by the defendant and the Kirkland Police Department do not comport with the Court's determination.

8. The Court has prepared a redacted version of the material to be released.

9. The defense Motion to Stay this Order pending Motion for Discretionary Review is denied.

DATED this 7th day of September, 2006.

/s/
GREGORY P. CANOVA
Judge of the Superior Court